



## THE COMMONWEALTH.

## KENTUCKY LEGISLATURE.

IN SENATE.

SATURDAY, Feb. 15, 1856.

Prayer by the Rev. J. P. SAFFORD, of the Presbyterian Church.

REMONSTRANCE.

Mr. KING—remonstrance from certain citizens of Palmetto, against any oppressive impositions upon agents of foreign insurance companies; referred to the Committee on the Judiciary.

LEAVE TO BRING IN BILLS.

Mr. HARRIS—a bill for the benefit of James Quin select committee—Messrs. Harris, Higgin and Bain.

Mr. HOWARD—a bill to incorporate the town of Gaget, in Carroll county; committee on Circuit Courts.

Also—a bill for the benefit of Benjamin Norman committee on Finance.

Mr. CAVAN—a bill to establish the Deposit Bank of Carlisle committee on Banks.

RECONSIDERATION.

Mr. COLLINS moved to reconsider the vote by which the bill for the benefit of Shelby College was rejected; carried, and bill postponed until Monday morning at 11 o'clock.

REPORTS FROM SELECT COMMITTEE.

Mr. HARRIS, from a select committee, reported a bill for the benefit of the heirs of Frank Quin.

(The bill makes the alien heirs as capable of inheriting as if native born.)

Mr. HOGAN moved to refer the bill to the committee on the Judiciary.

After a few discussions in which Mr. HOGAN advocated the reference, and Messrs. HARRIS, BLAIN and PALMER opposed it, the motion was negatived.

The bill was then amended and passed.

REPORTS FROM STANDING COMMITTEES.

Mr. G. LILLIS, from the committee on Public Offices, in relation to the communication from R. C. Wintersmith, Treasurer, to that committee referred; or level to be printed.

Said report is as follows:

The undersigned committee of the Senate to whom was referred the communication of R. C. Wintersmith, State Treasurer, having had the same under consideration, and after a full and faithful investigation of the facts, submit for the consideration of the Senate, the following report:

The act of 3d March, 1854, on which Mr. Wintersmith drew the money is in these words:

"That hereafter there shall be an allowance of one thousand dollars per annum for clerk's hire in the Auditor's Office, and five hundred dollars per annum to the Treasurer, to enable him to employ the services of a clerk, to aid him in the performance of his duties."

It will be perceived that the appropriation is direct to the Treasurer, to enable him to employ a clerk's services to aid him in the performance of his duties. The appropriation being direct "to the Treasurer," certainly gave him an indisputable right to the money, not only to draw the money from the treasury, but to give to him in the opinion of your committee the control of the same, unless expressly interdicted by a clause in the act; does such interdictory clause exist?

Your committee are of opinion that it does not. Although the five hundred dollars was given, through the means of the services of a clerk to enable him to perform the duties of his office, still the performance of those duties was the ultimate required, and as a faithful discharge of the duties was all that was demanded, and as the money was only given to enable him to employ the service of a clerk; and as nowhere in said act is the said Treasurer expressly required to employ a clerk, nor expressly required to employ the services of a clerk, but only enabled to employ such service, your committee came necessarily to the conclusion, that, to the Treasurer was given the entire control of the money, and that in consideration of the complete discharge of all the duties incumbent on the office of which Mr. Wintersmith is the head.

The next question which presents itself is, had he a right *morally* to retain the money. The answer to that depends on the opinion of your committee alone on the question of whether the Treasurer had faithfully and fully discharged the duties of his office. It was to secure such a discharge of the duties that the money was appropriated.And your committee having had ample means and opportunity offered them to ascertain the fact that those duties were all duly, faithfully and promptly performed, give it as their opinion unhesitatingly that he is *morally* entitled to retain the money. So much for the legal and moral construction given to the act under which the money was drawn and appropriated.

But your committee propose to take a more general and more extended view of the act of 3d March, and its effect upon the Treasurer.

It is evident that no competent clerk could be procured at five hundred dollars per annum, and it appears clear to the view of your committee that such was the view taken of it by the Legislature prior to the act. Otherwise, instead of placing five hundred dollars solely under the control of the Treasurer, the Legislature would have made the necessary provision for the permanent establishment of a clerkship in the office, with a stipulated salary. It appears also evident to your committee that the Legislature regarded the duties of the office of Treasurer as imposing labor upon that officer, for which his annual salary was not an adequate compensation. Yet that the duties to be performed and labor requisite thereto, were not sufficiently great to satisfy the permanent employment of a salaried clerk, and therefore to relieve the Treasurer of some of the labor incident to his office, the Legislature gave to that officer the five hundred dollars, that he might employ such aid as was necessary to the accomplishment of all his official duties; nowhere, however, binding him to any stipulated obligation, but that a prompt and faithful discharge of official duty, which we might thus be enabled to secure.

It may be said, however, that it was not the intention of the Legislature to employ the head of a bureau or salaried officer at the head of a department to do clerk's service, in connection with his duties of office and salary attached.

Such a course, your committee are of opinion, practiced upon as a rule would be improper, yet there are some peculiarities incident to the case under consideration. The office of Treasurer is one of deep responsibility, of heavy obligation, of imminent trust, having the keeping and handling of the entire cash revenues of the Commonwealth paid into said office annually, and being responsible for every dollar thereof. The Legislature would very naturally feel some delicacy in ordering a clerk in that department, unless at the express desire of the chief incumbent, and would, your committee are of opinion, choose rather not to interfere in the internal conduct of the office by giving a permanent clerk, but give such additional aid to the principal officer as to enable him to secure the performance of the duties, holding him alone responsible.

It may be urged, however, that as the Treasurer hired no clerk, that his salary is sufficient to secure the proper performance of his official duties, arguing from the fact that he did so perform them without the aid of clerk service. That may be a question calling for future action on the part of the Legislature; it certainly has nothing to do with the action of the past. The Legislature who passed the act of the 9th of March, 1854, must have supposed that the salary of the Treasurer was inadequate both to superintend the business of the office and perform the mechanical labor; else the five hundred dollars would not have been given. It appears that instead of increasing the salary direct, in its wisdom the Legislature thought proper to vote the five hundred dollars to the Treasurer, believing, as they must have done, that the salary allowed by law was not an amount sufficient to compensate the incumbent for the discharge of all the duties of that office.

Your committee find that Mr. Wintersmith did, from time to time, avail himself of the aid of a clerk, or clerks, but that the service was rendered gratuitously to Mr. Wintersmith, which labor, if charged for at a reasonable sum, would have amounted to a considerable sum; and that after the old thus afforded, Mr. Wintersmith was enabled, by extra labor, to discharge all the duties devolving upon his office. Your committee let not suppose that the State of Kentucky would ask her Legislators to reclaim any moneys given to an agent to purchase the performance of certain services, which the friends of such agent chose gratuitously to perform for such agent, out of personal kindness, but for which they would be entitled to pay it in the Commonwealth. And if Mr. Wintersmith chose to perform the additional labor necessary in his office by extra exertion, instead of hiring a clerk, most certainly the Commonwealth is as well served as if she had secured its performance by hiring a clerk.

In view, therefore, of the foregoing facts, your committee would sum up their opinion as follows:

First.—That Mr. Wintersmith was entitled to the money legally, the law being clear to our minds on that point.

Second.—That he was entitled to it morally, by hiring, by himself and friends, performed the duties for which it was appropriated. And

Third.—That no cause should attach to Mr. Wintersmith, he having, as we are fully satisfied, acted openly, fairly and candidly, with the honest conviction that he had an unquestionable *legal and moral right* to the money.

With a full appreciation of the wisdom of the Legislature, who passed the law of 9th March, 1854, and a true delicacy of feeling in approaching the subject of any suggestions relative thereto, still impressed by a sense of duty, inspired by a knowledge of the unpleasant position in which it had placed a worthy and deserving public servant, we would recommend to the present Legislature its immediate repeal. And furthermore, after a careful examination into the duties of Treasurer—in view of his deep responsibilities, his constant application, that he must bring to the station the highest grade of moral worth, an integrity above suspicion, an honesty which cannot be seduced by temptation, that he must reside at the capital, that he must occupy a position in a city befitting the dignity of the noble Commonwealth of which he is an important ministerial officer—impressed with these arguments, your committee unhesitatingly recommend to the present General Assembly the propriety of increasing the salary of the Treasurer to \$2,000 per annum.

All of which is respectfully submitted.

JAS. SUDDUTH,  
W. C. GILLISS,  
Committee on Public Offices.

Mr. BULLOCK, from the committee on the Judiciary, reported a bill to incorporate the Salem Presbyterian Academy; passed.

Also—a bill for the benefit of James G. and Archibald G. King, executors of Heinrich C. L. Schipper, dec'd.

(Authorizes the payment of four State bonds, lost by the sinking of the steamship Arctic.)

Mr. BULLOCK explained the bill, and after a few further remarks from Messrs. BUCKNER and HOGAN, it passed—yeas 32; nays 3.

Also—a bill requiring the verification of claims upon the treasury, and to prevent swindling, with an amendment.

(The bill requires every claim to be in writing, sustained by the written affidavit of the claimant that his claim is just and true—that it has never been paid—that he has no security or pledge for its payment—the affidavit to be made before any officer authorized to administer oaths. If there are witnesses to the claim, their affidavit must also accompany it. The laws now in force demand that the claimant must be present to swear to the affidavit, and the bill requires that he do so.)

Mr. MENZIES moved to refer the bill to the committee on Public Offices: lost—yeas, 38; nays, 49.

Mr. BOWLING offered an amendment, adding \$500 to the salary of the Treasurer.

Mr. NUTTALL opposed the amendment, upon the ground that the salary of the Treasurer was large enough.

Mr. IRVING moved the previous question: rejected—yeas, 14; nays, 70.

One motion was reconsidered, and the bill was referred to the committee on Propositions and Grievances.

Same—a bill regulating the application of moneys arising from the sale of vacant lands in Hart county: passed.

Mr. FOSS—a bill for the benefit of the Louisville and Caue Run Plank Road Company: passed.

Mr. MENZIES—a bill to amend the charter of the Louisville and New Port Branch Railroad Company: passed.

Same—a bill for the benefit of Phillip F. Brown, late sheriff of Kenton county: referred to committee on Ways and Means.

Same—a bill to regulate Turnpike Tolls: referred to committee on Ways and Means.

Mr. J. COOK—a bill for the benefit of Lemuel Hibbard, late sheriff of Laurel county: passed.

Mr. MONTGOMERY—a bill to amend the charter of the Louisville and New Port Branch Railroad Company: passed.

The question was then taken on adopting that portion of the resolution that limited the speakers to ten minutes, and it was decided in the affirmative—yeas, 47; nays, 41.

The question was then taken on adopting the second clause of the resolution; and it was decided in the negative.

Mr. NUTTALL offered the following joint resolution:

Resolved by the General Assembly of the Commonwealth of Kentucky, two-thirds of the members elected to the Legislature concurring therein, That the present session of the General Assembly be continued until the 10th day of March, 1856.

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# COMMONWEALTH.

FRANKFORT.

W. L. CALLENDER, Editor.

MONDAY, FEB. 1, 1856.

12<sup>th</sup> Single copies of the Daily Commonwealth, put up in wrappers, will be furnished to the members of the General Assembly at Two Cents per copy.

12<sup>th</sup> Single copies of the Weekly Commonwealth, containing a synopsis of each week's proceedings, will be furnished to the members of the General Assembly at Four Cents per copy.

Agricultural Convention of Kentucky.

The adjourned meeting of this convention will be held in Frankfort on the 21<sup>st</sup> inst. The officers of the Society will be elected then; and it is desired that all sections of the State be well represented, and that the most capable and efficient officers be chosen.

The act of incorporation has not as yet been passed by the Legislature; and a large assemblage of all persons interested, from all parts of the State, is particularly desired, so that the Legislature may feel well assured of the importance and popularity of the measure.

The Committee on the Constitution and Branches of the Society agreed to meet at my house on the 21<sup>st</sup> inst., and they will be received at Ducker's Dept. from the morning and evening hours. Editors friendly to the measure will please give this notice an insertion.

Feb. 14th, 1856. ROBERT W. SCOTT.

Dr. BINGHAM asks to inform this community, that he designs to close his room, for consultation at the Capital Hotel, on next Wednesday night.

The Louisville Times contains a letter, from an *Eve Witness*, concerning the late stabby affair at Vincennes, Indiana. This Eve Witness, we presume, must be a *Sgt.-Night*, and consequently incapable of seeing or hearing rightly where Americanism is concerned. He states that a Mr. Miller challenged the vote of an Irishman named Powers; when Powers declared himself to be a legal voter and gave Miller the lie, whereupon he (Miller) drew a knife and stabbed Powers, killing him in about ten minutes. The turn which the Times takes to give to this letter, is that Powers was killed merely because he was a foreigner and opposed to the American party.

But another exchange states that when the vote of Powers was challenged he not only gave Miller the lie, but also shook his fist in Miller's face and was upon the point of striking him, when he was arrested in so doing by being killed. Thus we see that he was not slain on account of his political opinions, as the Times would have us believe, but that his death resulted from his own impudent conduct. We do not attempt to justify Miller, even taking the latter view of the matter, but merely wish to defend the great American party from the slanderous imputations which this *eye witness*, (we suppose he was affected with "red eye") would cast upon it.

Congressional. (Thursday's Proceedings Concluded.)

WASHINGTON, Feb. 15. — The Senate resumed the consideration of Mr. Wilson's resolution calling on the President for all information in his possession respecting the disturbances in Kansas, effecting the free vote of the elections.

Mr. Grier denounced the emigrant aid societies, which had sent men to Kansas to control the elections there. All the outrages had originated in these extraordinary and unprecedented organizations. He was willing to have an inquiry into the matter if these societies were included in the investigation.

Mr. Toucey hoped the Senate would adopt a resolution in the proper form, calling upon the Executive for full information relative to the affairs in Kansas. He appeared in the fullest manner the President's proclamation and the course therein suggested.

On motion the further discussion was postponed and the debate relative to the proceedings of the naval board was adjourned.

Mr. Butler considered the board as the most notorious tribunal ever instituted in this or any other country.

After the debate involving the effect of the repeal of the law under which the board acted the Senate adjourned till Monday.

House.—The President's special message was taken up.

Mr. Houston moved its reference to the Committee of the Whole in the state of the Union.

Mr. Giddings appealed to the friends of humanity, to the Committee of Territories, it is necessary to legislate at the earliest moment in order to prevent dangers threatening the people of that Territory, and to prevent them from being butchered by the Federal troops.

Mr. Dam thought the Judiciary Committee was the proper reference. He protested against the bygones being presented at a breath in Kansas.

Mr. Orr and others contended that, as various recommendations were contained in the message, the House could determine, after a discussion, the reference proper for them.

Mr. Hinman's motion finally prevailed by a majority of three, and the House adjourned till Monday.

We are requested by the gentlemen who have published in our paper to day a defense of Rev. C. Lewis, to ask the favor of the American papers of the State generally to copy it. We will say for them that they are gentlemen of the highest character, and their word will be taken as sufficient evidence of the truth of anythin' they may assert by all who know them, and we are informed that one of them are members of the same church with Mr. Lewis.

Professor KNAPP.—This gentleman, who claims to have discovered the *cause* of cholera, is now living in Louisville. We imagine that the *cause* of this terrible epidemic is of secondary importance; but if he will follow up this discovery by informing us how it may be *prevented* or cured, he will be justly esteemed one of the greatest benefactors of the human race, by all who have suffered from its desolating influence.

We will call the attention of our citizens who have not yet been edified by Frankenstein's Niagara, to the fact, that it will be exhibited again to-night. In consequence of the meeting of the Lodge, the doors will not be opened until 7 o'clock, and the "ceaseless roll" of "Niagara" will be for a time delayed, and will not commence until 7 1/2 o'clock.

Louisville, Feb. 15th, 8 A.M. The boilers of the Louisville Paper Mill exploded this morning, killing a woman named M. M. Mott, and dangerously wounding a man and his son. The accident was caused by want of water in the boilers. Loss estimated at from \$20,000 to \$30,000.

The following communication was received several days ago, but on account of a press of other matter was left over.

To Se De Kay, Frankfort Correspondent of the Louisville Courier.

SIR: The undersigned, friends and neighbors of the Rev. C. W. LEWIS, having seen, in the Louisville Courier, several articles over your signature containing statements with regard to that gentleman wholly untrue, and without the slightest foundation in fact. Being actuated by no kindly feelings towards you, but knowing that personally you must be entirely ignorant of the subject on which you write, and must rely on the statements of others for them, have concluded to address you kindly and respectfully, partly with the view, if possible, of disabusing your mind, partly to explain the causes which have led to this attack on Mr. Lewis, as known to ourselves, but mainly to vindicate the character of a most worthy and high-minded gentleman, and exemplary and consistent Christian and minister of the gospel. In your first article, noticing the resignation of the Rev. C. B. Parsons, you mention the Rev. Cad. Lewis as his successor, who, you say, "has frequently demonstrated his zeal in the cause of religious persecution—the latest instance being his attempt to divide the Church at Buck Run." Now, to both of these charges, the general and specific, we who are his neighbors plead for him "Not guilty," and as those who have been his real admirers have thought proper through you, (for, as we said before, you of yourself must, on this subject at least, be a *Know-Nothing*), to drag this Buck Run Church indirectly into the newspapers, we who know we the real causes of said difficulty, have concluded to present them to you and the public, leaving both to judge whether Rev. Cad. Lewis, or others, are answerable for it.

To begin: we most unhesitatingly give it as our belief that it had its origin in political differences, which we think the bare statement of a facts known to us will make fully apparent to the world.

A certain gentleman, whom it is unnecessary to name, who has for many years been a Deacon in every prominent minister and leader in said church, having, as he supposed, ruled the church so well and so long, became, some years since, tired with a desire to figure in the political world. He accordingly offered to represent the good people of Franklin County in the Legislature of Kentucky, on the Democratic side of politics.—Parties in the county at this time (Whig and Democratic) were pretty equally divided. Having been known as a Democratic leader, and by making strong appeals to some of his Whig Baptist friends, inducing some to vote for him, and others to remain neutral, he was only defeated by a few votes. Encouraged by this result, and being extremely anxious to show forth his abilities on a larger theatre than Buck Run church, he again presented himself to the people of the county for their suffrages at the last August election.

But a great change had come over the spirit of the church—he was this time defeated by a large majority; and amongst others the Rev. Cad. Lewis, who on the former occasion had supported him by his vote, (being then a Democrat) sometime previous to the last election, embraced the views of the American Party, voted for the candidate of that party and against the Ex-Squire and ruling Deacon of Buck Run church.

For a year or more prior to the election it was rumored that Mr. Kenny the then pastor of the church at Buck Run contemplated removing from the State and re-locating his pastoral charge. Up to the time of Mr. Lewis identifying himself with the American party he was the only man we ever heard speak of as Mr. K.'s successor, provided his services could be procured, this seeming to be the only apprehension and many were the appeals made to him to extract a promise from him to recent the pastorate in this contingency and this to the very men who are now most bitter in their denunciations of him. In a conversation which one of us had with a Democratic member of the committee appointed to present a suitable person as Pastor, after the resignation of Mr. Kenny, he remarked that Mr. Lewis was decidedly his choice; that he considered him the most suitable man and had no doubt of his being the choice of the church expressing at the same time great fears that he could not be obtained. About two weeks after this conversation, he was heard to speak of Mr. K.'s successor, provided his services could be procured, this seeming to be the only apprehension and many were the appeals made to him to extract a promise from him to recent the pastorate in this contingency and this to the very men who are now most bitter in their denunciations of him. In a conversation which one of us had with a Democratic member of the committee appointed to present a suitable person as Pastor, after the resignation of Mr. Kenny, he remarked that Mr. Lewis was decidedly his choice; that he considered him the most suitable man and had no doubt of his being the choice of the church expressing at the same time great fears that he could not be obtained. 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